

# EXHIBT A

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IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR YAKIMA COUNTY

JESSE ERVIN,

Plaintiff,

v.

MOUNTAIN VIEW EQUIPMENT CO.,  
a for-profit limited liability company, and  
STUART FJELDSTED and his marital  
property,

Defendant.

NO.

Summons

**TO Mountain View Equipment Co.'s Registered agent:**

**Steve Anderson**

**521 Midvale Rd**

**Sunnyside, WA 98944**

A lawsuit has been started against you in the above-named Court by the above-named plaintiff. Plaintiff's claims are stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against this lawsuit, you must respond to the Complaint by stating your defense in writing, and serve a copy upon the undersigned attorney within twenty (20) days after the service of this Summons, excluding the day of service, or sixty (60) days if this Summons is served outside the State of Washington, or a default judgment may be entered

1 against you without notice. A default judgment is one where plaintiff is entitled to what she  
2 asks for because you have not responded. If you serve a Notice of Appearance on the  
3 undersigned attorney, you are entitled to notice before a default judgment may be entered.

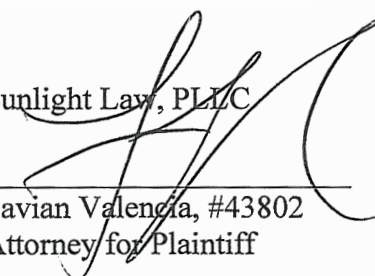
4 You may demand that the plaintiffs file this lawsuit with the court. If you do so, the  
5 demand must be in writing and must be served upon the plaintiffs. Within fourteen (14) days  
6 after you serve the demand, the plaintiff must file this lawsuit with the court, or service upon  
7 you of this Summons and Complaint will be void.

8 If you wish to seek the advice of an attorney on this matter, you should do so promptly  
9 so that your written answer, if any, may be served on time.

10 This Summons is issued pursuant to Rule 4 of the Superior Court of the Civil Rules of  
11 the State of Washington.

12 DATED this 1<sup>st</sup> day of November, 2018.

13  
14 Sunlight Law, PLLC

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17 Favian Valencia, #43802  
18 Attorney for Plaintiff  
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**IN THE SUPERIOR COURT OF WASHINGTON  
IN AND FOR YAKIMA COUNTY**

JESSE ERVIN,

Plaintiff,

v.

MOUNTAIN VIEW EQUIPMENT CO.,  
a for-profit limited liability company, and  
STUART FJELDSTED and his marital  
property,

Defendant.

NO.

COMPLAINT FOR DAMAGES  
AND JURY DEMAND

Plaintiff, Jesse Ervin, by and through his undersigned attorney of record, alleges as his  
complaint against Defendants as follows:

**I. PARTIES**

1. Plaintiff is and, at all times relevant hereto, was a resident of Yakima County,  
Washington.

2. Defendant, Mountain View Equipment Co. ("MVE") is and, at all times relevant  
hereto, was a for-profit corporation doing business in Yakima County, Washington.

3. Defendant Stuart Fjeldsted and his spouse were and, at all times relevant hereto, are  
residents of Boise, Idaho.

## **II. JURISDICTION AND VENUE**

1  
2 4. All acts alleged herein occurred in Yakima County, Washington and as such this court  
3 has jurisdiction over the subject matter and the parties involved and is the proper venue for this  
4 proceeding pursuant to RCW 4.12.020.

## **III. FACTUAL ALLEGATIONS**

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6 5. Plaintiff began working for MVE as a parts specialist on, or about, February 2014.

7  
8 6. Plaintiff was a dedicated employee for Defendants and executed satisfactory work  
9 through out his employment with MVE.

10 7. Since 2012, Plaintiff suffered from depression and anxiety and he informed Defendants  
11 of these conditions

12 8. On, or about, June 2014, Plaintiff suffered a debilitating neck injury while a sheet of  
13 plywood slipped off a forklift above me and struck above his right ear and jammed his head  
14 against left shoulder and pinned him against the wall until someone was able to help him get it  
15 off (hereinafter referred to as "workplace injury").

16  
17 9. As a result of this injury, Plaintiff's doctors ordered medically necessary work  
18 restrictions that prevented him from lifting anything that was more than five (5) pounds.

19 10. Although Plaintiff informed Defendants of his injury and his medical restrictions in  
20 writing and orally, Defendants initially denied knowing about these restrictions.

21 11. Plaintiff's work required him to sometimes lift things that were heavier than his  
22 medically restrictions allowed. Defendants failed to take any proactive steps to follow these  
23 medical restrictions and would seem upset when Plaintiff would remind Defendants of the  
24 restrictions.  
25  
26

12. On, or about, December 2015, Defendants complained to Plaintiff that he seemed  
1 “distracted.” Plaintiff responded by informing them that he suffered from ADD and anxiety.  
2

13. Plaintiff’s workplace injury and/or his ADD and anxiety constitute a disability as  
3 defined in a disability as defined in Washington Law Against Discrimination (“WLAD”),  
4 RCW 49.60, et. seq. and the Americans with Disabilities Act (“ADA”).  
5

14. Plaintiff’s workplace injury and anxiety and ADD caused him to be an inpatient at the  
6 hospital for more than two days at a time and/or required him to obtain continuing medical  
7 treatment from his health care providers, which is considered a serious health condition under  
8 the Family Medical Leave Act (“FMLA”) 29 C.F.R. § 825.113 and the Washington State  
9 Family Leave Act (“FLA”) RCW 49.78.020.  
10  
11

15. After the workplace injury, Plaintiff had to take intermittent leave to obtain medical  
12 treatment up until he was terminated.  
13

16. Plaintiff gave notice in writing and orally to Defendants each time that he had to take  
14 time off due to the workplace injury and his medical conditions.  
15  
16

17. Defendants failed to provide Plaintiff with the proper notices regarding his eligibility  
17 for protected leave each time that he gave notice and took medical leave from work.  
18

18. Defendants gave favorable treatment to employees that did not have disabilities and did  
19 not request accommodations by not terminating them.  
20

19. Plaintiff was also discriminated and retaliated against for asking for accommodations  
21 for his medical lifting restrictions.  
22  
23

20. Defendants failed to participate in the interactive process regarding his requests for  
24 accommodations for his ADD, anxiety and neck injury.  
25

21. Defendants failed to accommodate Plaintiff.  
26



22. On, or about October 31, 2017, Defendants terminated Plaintiff in retaliation and/or discrimination based on his disability and requests for accomodation.

23. In any given year, including the year immediately preceding his termination, Plaintiff worked for Defendants at least 1,250 hours.

24. Plaintiff was employed at MVE's worksite that had over fifty (50) employees within a 75-mile radius and each of these employees worked for each working day during 20 or more calendar workweeks in the current or preceding year.

25. MVE is an enterprise engaged in commerce or in the production of goods for commerce.

26. MVE is a covered employer for the purposes of FMLA, ADA, WLAD, and WFLA. Since Plaintiff started working for BOA, he has been an employee covered and eligible for benefits under the WFLA and FMLA.

#### **IV. CAUSES OF ACTION**

27. The foregoing paragraphs are realleged and incorporated by reference hereinafter in each cause of action that follows.

##### **COUNT ONE: Violation of Washington State Law Against Discrimination**

28. Defendant violated the Washington Law Against Discrimination ("WLAD"), RCW 49.60, et. seq., by undertaking adverse employment actions, retaliating against Plaintiff, denying Plaintiff promotions, and ultimately terminating him. Plaintiff was doing satisfactory work, but was targeted and terminated due to his disability and request for accommodations.

##### **COUNT TWO: Willful Violation of the Federal and Washington State Family Leave Act**

29. Defendants willfully, or with reckless disregard, violated the FMLA and FLA by retaliating and/or denying Plaintiff statutorily-protected benefits, including but not limited to:

1 29.1. Failing to provide Plaintiff with proper notices of his eligibility for protected leave and  
2 the procedures to request the leave;

3 29.2. Not allowing Plaintiff to take protected leave to take care of his serious health condition  
4 - interfering with his right to take protected leave; Retaliating against Plaintiff for taking  
5 medical leave;

6 29.3. Not returning Plaintiff to his position, or a similar position, upon his return from  
7 medical leave; and/or

8 29.4. Demoting, failing to promote and/or terminating Plaintiff for requesting and/or taking  
9 protected leave.  
10

11 **COUNT THREE: Hostile Work Environment**

12 30. The Defendant's conduct as alleged above constitutes hostile and abusive working  
13 environment in violation of these claims. The reasons stated by Defendants for its conduct  
14 were not the true reasons, but instead were pretext to hide the Defendant's discriminatory  
15 animus.  
16

17 **COUNT FOUR: Wrongful Termination in Violation of Public Policy**

18 31. Defendants wrongfully terminated Plaintiff in violation of public policy by retaliating  
19 against Plaintiff and terminating his for his disability, taking protected medical leave and for  
20 requiring medical accommodations.

21 **COUNT FIVE: Failure to Accommodate**

22 32. Defendants violated WLAD and the ADA by failing to accommodate Plaintiff's  
23 medical conditions by making him lift things that were heavier than his restrictions and firing  
24 him for needing and requesting accommodations.  
25

26 **V. OTHER CLAIMS**



33. Plaintiff reserves the right to conduct discovery into alternative claims and additional defendants and to amend these charges as necessary.

**VI. PRAYER FOR RELIEF**

34. WHEREFORE, Plaintiff prays for judgment against the Defendants, jointly and severally, in such amount as to be proven at trial, including but not limited to, economic and noneconomic damages suffered by Plaintiff, reasonable attorney fees, costs and expenses permitted by law for such other and further relief as the Court deems just, equitable and proper.

**VII. JURY DEMAND**

35. Plaintiff requests a jury by trial.

DATED this 15<sup>th</sup> day of November, 2018.

SUNLIGHT LAW, PLLC

FAVIAN VALENCIA, WSBA #43802  
Attorney for Plaintiff  
402 E Yakima Avenue, Suite 730  
Yakima, WA 98901  
Phone: (509) 388-0231

SUPERIOR COURT OF WASHINGTON FOR YAMIMA COUNTY

JESSE ERVIN,

Plaintiff,

v.

MOUNTAIN VIEW EQUIPMENT CO., a for-profit limited liability company, and STUART FJELDSTED and his marital property,

Defendants.

NO.

**NOTICE OF APPEARANCE FOR  
DEFENDANTS MOUNTAIN VIEW  
EQUIPMENT CO. AND STUART  
FJELDSTED**

TO: Clerk of the Court;

AND TO: Plaintiff and his attorney, Favian Valencia of Sunlight Law, PLLC

YOU ARE HEREBY NOTIFIED THAT WILLIAMS, KASTNER & GIBBS PLLC, without waiving objections as to improper service, venue, or jurisdiction, hereby appears as attorneys for **MOUNTAIN VIEW EQUIPMENT CO. and STUART FJELDSTED and his marital community**, the defendants in the above-entitled action. You are notified that service of all further pleadings, notice, documents, or other papers herein, except original process, may be had upon said defendants by serving the undersigned attorneys at the address below stated.

NOTICE OF APPEARANCE FOR DEFENDANTS MOUNTAIN VIEW  
EQUIPMENT CO. AND STUART FJELDSTED - 1

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**Williams, Kastner & Gibbs PLLC**  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

1 DATED this 28<sup>th</sup> day of November, 2018.

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3  
4 Sheryl J. Willert, WSBA #08617  
5 Jessica M. Cox, WSBA #53027  
6 Jeffery M. Wells, WSBA #45840  
7 Williams, Kastner & Gibbs PLLC  
8 601 Union Street, Suite 4100  
9 Seattle, WA 98101-2380  
10 Phone: 206-628-6600  
11 E-mail: swillert@williamskastner.com  
12 jcox@williamskastner.com  
13 jwellst@williamskastner.com

14 Attorneys for Defendants  
15 Mountain View Equipment Co.  
16 and Stuart Fjeldsted and his marital community  
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NOTICE OF APPEARANCE FOR DEFENDANTS MOUNTAIN VIEW  
EQUIPMENT CO. AND STUART FJELDSTED - 2

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**Williams, Kastner & Gibbs PLLC**  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600

**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury under the laws of the State of Washington that on the date below, I caused a true and correct copy of the foregoing document to be delivered to the following parties in the manner indicated:

Favian Valencia, WSBA #43802  
Sunlight Law, PLLC  
402 E. Yakima Avenue, Suite 730  
Yakima, WA 98901  
Phone: 509-388-0231  
Email: favian@sunlightlaw.com

- ☒ Via electronic mail
- ☒ Via U.S. Mail
- ☐ Via Legal Messenger
- ☐ Via Facsimile

*Attorneys for Plaintiff*

DATED this 28<sup>th</sup> day of November, 2018.



Sandra Brown, Legal Assistant

NOTICE OF APPEARANCE FOR DEFENDANTS MOUNTAIN VIEW  
EQUIPMENT CO. AND STUART FJELDSTED - 3

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Seattle, Washington 98101-2380  
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